STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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January 3, 2007

Honorable Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 1-A209
Washington, D.C. 20426

Re: Docket No. RM06-16-000 - Mandatory Reliability Standards for the Bulk-Power System

Dear Secretary Salas:

For filing, please find the Comments of the New York State Public Service Commission in the above-entitled proceeding. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

David G. Drexler
Assistant Counsel

Attachment

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Mandatory Reliability Standards for the Bulk-Power System	))	Docket No. RM06-16-0000

COMMENTS OF THE NEW YORK STATE PUBLIC SERVICE COMMISSION

INTRODUCTION AND SUMMARY

The Energy Policy Act of 2005 provides the Federal Energy Regulatory Commission (FERC or Commission) with authority to adopt mandatory reliability standards governing the operation of the nation's Bulk-Power System.[1] The Commission certified the North American Electric Reliability Council (NERC) as the Electric Reliability Organization (ERO) responsible for establishing and enforcing such reliability standards, subject to FERC's review.[2] Accordingly, the ERO filed 107 proposed standards for approval by the Commission.

On May 11, 2006, the Commission released FERC Staff's Preliminary Assessment of NERC's proposed reliability standards. The New York State Public Service Commission (NYPSC) filed comments on the Preliminary Assessment on June 26, 2006,

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[1] Pub. L. No 109-58, Title XII, Subtitle A, 119 Stat.594, 941 (2005).

[2] 116 FERC ¶61,062, Docket No. RR06-1-000, July 20, 2006 Order.

generally supporting the adoption of mandatory national reliability standards for the Bulk-Power System.

The NYPSC hereby responds to the Commission's October 20, 2006 Notice of Proposed Rulemaking (NOPR), which seeks comments on the proposal to approve 83 of the 107 proposed reliability standards, along with a glossary of terms and six regional differences.[3] In sum, the NYPSC supports the adoption of the proposed reliability standards for the Bulk System. Compliance with the proposed national standards, in addition to the reliability standards that have already been adopted by the NYPSC,[4] should help ensure that events in one region do not adversely affect reliability in other regions, as we experienced

[3] The Commission also issued a "Notice Granting in Part Motions for Extension of Time to File Comments and Announcing Rulemaking Proceeding" (Notice) on November 27, 2006, signaling to parties that the ERO filed proposed revisions to 20 of the reliability standards and a request to adopt three new standards. Pursuant to the Notice, the Commission seeks comments on the revised standards.

[4] Case 05-E-1180, Order Adopting New York State Reliability Rules (issued February 9, 2006). The Energy Policy Act of 2005 specifically provides New York with authority to establish rules that result in greater reliability within the State, as long as such action does not result in lesser reliability outside the State than that provided by the Commission-approved reliability standards. §215(i)(3).

during the August 14, 2003 blackout.[5] However, the Commission's proposed interpretation of what facilities constitute the "Bulk-Power System" goes beyond the meaning of the term, as defined in the Energy Policy Act of 2005, by encompassing facilities that are part of the Non-Bulk Power System.

The proposed bright-line voltage test for defining the Bulk-Power System would exceed the Commission's jurisdiction and impose potentially significant costs upon utilities to comply with reliability standards, while not necessarily obtaining any reliability benefits on the Bulk System. By imposing reliability standards upon facilities operating at voltages above 100 kV, and perhaps lower, various non-jurisdictional facilities would be subject to the mandatory standards, despite serving Non-Bulk functions that do not impact on the operation of the Bulk-Power System.

Therefore, the NYPSC encourages the Commission to adopt a "functional test" for determining which facilities should be subject to the mandatory national reliability standards by identifying only those facilities that are both part of and materially affect the Bulk-Power System. A functional test is consistent with the definition of the Bulk-Power System in the

[5] We expect that the New York State Reliability Council will continue to develop, maintain and update the reliability standards approved by the NYPSC in order to ensure a comprehensive list of enforceable reliability standards.

Energy Policy Act of 2005; would avoid inappropriate designations of facilities that would impose unnecessary costs; and, would ensure the Commission does not exceed its jurisdictional authority over the Bulk-Power System.

DISCUSSION

A Functional Test Should be Used For Determining Which Facilities Are Part Of And Affect The Bulk-Power System

I. The Proposed Bright-Line Test Would Encompass Facilities Beyond the Commission's Jurisdiction

The Energy Policy Act of 2005 authorizes the Commission to approve reliability standards for the Bulk-Power System, which is defined to include: (A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and (B) electric energy from generating facilities needed to maintain transmission system reliability. The term does not include facilities used in the local distribution of electric energy.[6]

NERC's proposed glossary indicates that the reliability standards would apply to the "bulk electric system," meaning: "[a]s defined by the Regional Reliability Organization [(RRO)], the electrical generation resources, transmission lines,

[6] Electricity Modernization Act of 2005, Pub. L. No. 109-58, Title XII, Subtitle A, 119 Stat. 594, 941, §1211(a) (Energy Policy Act of 2005).

interconnections with neighboring systems, and associated equipment, generally operated at voltages of 100 kV or higher. Radial transmission facilities serving only load with one transmission source are generally not included in this definition." NERC recommends that this definition be used for the initial approval of the proposed reliability standards, but suggests a change may be appropriate in the long term.

Although FERC agrees with NERC's proposal to use the definition of "bulk electric system" as a transition approach, the Commission interprets this term "to apply to all of the ≥ 100 kV transmission systems and any underlying transmission system (< 100 kV) that could limit or supplement the operation of the higher voltage transmission systems. It would also include transmission to all significant local distribution systems (but not the distribution system itself), load centers, and transmission connecting generation that supplies electric energy to the system."[7]

Defining the Bulk-Power System as facilities operating at or above 100 kV would exceed the Commission's jurisdiction by encompassing facilities that are clearly part of the Non-Bulk Power System, and are not necessary for operating an

[7] NOPR at ¶68.

interconnected transmission network.[8] To illustrate, certain 138 kV facilities in New York, such as radial lines, operate at voltage levels above 100 kV, yet do not serve a bulk system function due to the high concentration of load served by those lines, nor affect such system.[9] In fact, these lines are not involved in the movement of energy on the "interconnected" Bulk-Power System.[10] As such, a loss of these radial lines would not

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[8] Through years of studies and functional testing, the New York Independent System Operator, Inc. (NYISO), as well as its predecessor (i.e., the New York Power Pool), have developed a list of facilities that have the potential to cause cascading problems on the electric system. These facilities are considered part of the Bulk System in New York, and are under the NYISO's operational control. In addition, the NYISO has developed a secondary list of facilities that can impact the Bulk System, although they are under the control of the transmission owner. The Commission-approved reliability standards should only apply to both lists of facilities, which are contained in Attachment A of the NYISO's Transmission & Dispatching Operations Manual (dated September 1999). See, http://www.nyiso.com/public/webdocs/documents/manuals/operations/trans_disp.pdf.

[9] The Commission incorrectly cites New York City's 138 kV system as an example of a reliability gap (NOPR fn 53). The majority of the 138 kV lines serve as direct feeders to the networked distribution system serving load. The few 138 kV facilities that can impact the bulk system are discussed in footnote 8. Although these facilities are controlled by the transmission owner, any change in status must be reported to the NYISO.

[10] According to the Federal Power Act of 2005, the Bulk-Power System does not cover "facilities and control systems [un]necessary for operating an *interconnected* electric energy transmission network." Pub. L. No 109-58, Title XII, Subtitle A, 119 Stat.594, 941 (2005).

have an affect upon the *reliable* operation of the Bulk-Power System.

In general, there is a layer of "area" transmission facilities below the Bulk-Power System and above distribution facilities that serves to move energy within a service territory and toward load centers. Only a small subset of these underlying facilities assists in maintaining the reliability of the bulk system. It is also apparent that not all generation facilities within New York are necessary to reliably operate the Bulk-Power System, such as facilities located at the end of radial lines or connected at lower voltage levels.

Moreover, the proposal to apply the reliability standards to facilities operating below 100 kV, which could "limit or supplement" operation of the transmission system, would also exceed the Commission's jurisdiction. The ability of a facility to limit or supplement the transmission system does not automatically mean that a facility is necessary for operating an interconnected transmission system or for maintaining system reliability. For example, it is possible to adjust operating limits in order to reliably operate the Bulk System, despite a loss of such underlying facilities. Therefore, the Commission's interpretation of NERC's definition of the bulk electric system is unnecessarily broad and oversteps the Commission's jurisdiction under the Energy Policy Act.

II. The Proposal Would Impose Potentially Significant Costs Upon Utilities and Divert Resources, Without Necessarily Providing Reliability Benefits

Adopting the Commission's proposed bright-line voltage test would be costly to implement, as utilities would be required to upgrade portions of their electric systems historically considered Non-Bulk facilities in order to comply with newly-applicable reliability standards. As noted above, these Non-Bulk facilities do not necessarily have the ability to impact the reliable operation of the "interconnected" Bulk-Power System. Focusing on Non-Bulk parts of the system would also divert the Commission's and the ERO's resources away from ensuring the reliability of the Bulk-Power System.

Although it may be appropriate to expand the scope of facilities that are subject to the reliability standards *in some instances*, the Commission should consider the costs and benefits (i.e., the incremental reliability benefits) of expanding the application of the standards to facilities that have never been subject to NERC's voluntary standards. In addition, before the Commission decides to expand the application of the reliability standards, NERC should be required to evaluate and report back upon the reliability impacts and the feasibility of implementing the reliability standards for portions of the system where such standards have not previously applied. This evaluation should help avoid any unintended consequences. For instance, NERC's

pending standards TOP-004, which calls for operating the bulk system to multiple contingencies, and TPL-003, which provides for system planning such that the network can be operated to supply projected customer demands with the loss of multiple elements, would be difficult, if not impossible, to adequately analyze if applied at the 100 kV level due to the hundreds of potential contingencies that may exist.

III. A Functional Test Is Consistent With The Definition Of The Bulk-Power System In The Energy Policy Act Of 2005

Given the legal and financial implications of adopting a bright-line test, the NYPSC encourages the Commission to utilize a functional test for defining the Bulk-Power System, such as the one proposed by NERC or currently used by the Northeast Power Coordinating Council's (NPCC) to identify facilities having an adverse impact on the Bulk System. For example, the NPCC identifies facilities having an adverse impact on bulk systems by defining the bulk power system as "the interconnected electrical systems within northeastern North America comprising generation and transmission facilities on which faults or disturbances can have a significant adverse impact outside of the local area. In this context, local areas are determined by the Council members."[11]

[11] See, http://www.npcc.org/publicFiles/reliability/criteriaGuidesProcedures/a-07.pdf.

Because a functional test identifies "facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof),"[12] it is consistent with the Energy Policy Act of 2005. By determining which facilities are necessary to reliably operate the Bulk-Power System, this test would obviate FERC Staff's concern that a discrepancy in definitions could lead to reliability gaps. Although this approach could result in the same voltage lines being classified differently, as recognized by FERC Staff, such an outcome is entirely consistent with an acknowledgement that facilities with similar voltages may or may not be part of the Bulk-Power System or affect such System, depending on the characteristics and configurations of regional electric systems.

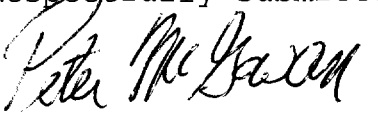
CONCLUSION

The NYPSC fully supports the Commission's initiative to secure the reliability of the nation's Bulk-Power System by adopting a comprehensive set of mandatory and enforceable standards. In doing so, the Commission should employ a

[12] Energy Policy Act of 2005 §1211(a).

functional test for determining which facilities are both part of and affect the Bulk-Power System.

Respectfully submitted,



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Dated: January 3, 2007
Albany, New York

CERTIFICATE OF SERVICE

I, Helen Kaplan, do hereby certify that I will serve on January 3, 2007, the foregoing Comments of the New York State Public Service Commission upon each of the parties of record, indicated on the official service list compiled by the Secretary in this proceeding.

Date: January 3, 2007
Albany, New York

Helen Kaplan